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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

QUALITY LOAN SERVICE
CORP., as Trustee,

Plaintiff,

v.

SHARON LEE WU,

Defendant and Appellant,

HUI ZHI CHEN,

Defendant and Respondent.

B285774

(Los Angeles County
Super. Ct. No. KS020920)

APPEAL from an order of the Superior Court of
Los Angeles, Dan Thomas Oki, Judge. Affirmed.

Sharon Wu, in pro. per, for Defendant and Appellant.

Edward C. Ip & Associates and Edward C. Ip for Defendant
and Respondent.

This case involves the distribution of surplus funds from a trustee's foreclosure sale of a house purchased and continuously owned by a husband and wife. The trial court divided the proceeds of the community property between the husband and wife. The husband's daughter—appellant Sharon Lee Wu—argues that the trial court should have distributed some or all of the surplus funds to her. Wu fails to show any error in characterizing the property as community property. She also fails to show that she had an entitlement to the surplus funds. We affirm.

BACKGROUND

Jan Tai Lee and Hui Zhi Chen are husband and wife. Wu is Lee's daughter. On appeal, Wu represents herself in *propria persona*.

In 1992, Lee and Chen purchased a house located at 15818 Harvest Moon Street in La Puente (the property) as husband and wife. Initially, they were joint tenants, but later Lee recorded a deed releasing his interest in the property to him as a tenant in common.

On April 13, 2017, Quality Loan Service Corporation (Quality) sold the property in a nonjudicial foreclosure sale. On June 15, 2017, Quality filed a petition to deposit surplus funds pursuant to Civil Code section 2924j.¹ Quality indicated

¹ Civil Code section 2924j requires that a trustee send notice of a sale in which proceeds remain to all persons with recorded interests in real property. (Civ. Code, § 2924j, subd. (a).) The trustee or clerk of the court is required to distribute the proceeds in the following order of priority: “(1) To the costs and expenses of exercising the power of sale and of sale,

that it was not able to determine how to distribute the surplus funds and therefore sought to deposit the funds with the court pursuant to Civil Code section 2924j, subdivision (c). The surplus funds totaled \$303,839.64. The court granted Quality's petition, and Quality is not a party on appeal. Wu, Lee, and Chen claimed an interest in the surplus funds.

1. Wu's claim

Wu argued that she was entitled to the entire amount of the surplus funds. She based her argument on two mechanics' liens and a default judgement entered against Lee.

On March 15, 2016 (prior to the foreclosure sale), Wu recorded a mechanic's lien in the amount of \$68,000. The lien indicated that it had been imposed for the following services: "Hire architect room addition, . . . landscaping, plan sprinkler system, painting patio, bathroom, storage[,] gardening room," and other apparent items that are illegible.

Wu recorded a second mechanic's lien on March 17, 2016 in the amount of \$180,000. This lien encompassed: "Down payment & clos[ing] cost, additional rooms . . . , remodeling advance funeral expenses advance Rose Hill lot . . . advance my wedding

including the payment of the trustee's fees and attorney's fees permitted pursuant to subdivision (b) of Section 2924d and subdivision (b) of this section. [¶] (2) To the payment of the obligations secured by the deed of trust or mortgage which is the subject of the trustee's sale. [¶] (3) To satisfy the outstanding balance of obligations secured by any junior liens or encumbrances in the order of their priority. [¶] (4) To the trustor or the trustor's successor in interest. In the event the property is sold or transferred to another, to the vested owner of record at the time of the trustee's sale." (*Id.*, § 2924k, subd. (a).)

expenses and air line tickets and other misc. expenses.”
(Capitalization omitted.)

On January 30, 2017, Wu recorded a default judgment against Lee in the amount of \$280,000. The judgment was based on a contract, which appears to be written in both English and Chinese, between Wu and Lee. It states that Lee agrees “to pay back Sharon Lee Wu’s loan, which I had borrow before from her. . . .” The trial court subsequently vacated that default judgment.

2. Chen’s claim

Chen filed a claim for surplus funds seeking \$151,919.82. She based her claim on the fact that she owned 50 percent of the property at the time of the trustee sale.

3. Lee’s claim

Lee sought the full amount of the surplus funds. The basis of his claim was that he owned the property at the time of the trustee sale.

In his declaration, Lee stated that Chen was not entitled to any funds. According to Lee, he and Chen lived separately, and Chen did not contribute to mortgage payments. Lee averred that he owed Wu \$280,000. According to Lee, Lee had been ill since 2011 and Wu cared for him. According to Lee, Chen “married . . . me only [to] raise her daughter and . . . [help] her family [immigrate], she took all my money.” Lee averred that Chen did not act as his wife.

4. Hearing and order

The trial court held a hearing on the claims for the surplus funds. The hearing was not reported.

The trial court ordered the surplus funds to be equally divided between Chen and Lee, with each receiving \$151,919.82. Wu timely appealed. Lee is not a party on appeal.

DISCUSSION

Wu's challenge to the trial court's order lacks merit for three independent reasons. First, she has forfeited her arguments by failing to provide any citation to the record. Second, Family Code section 1102 prohibited Lee from unilaterally encumbering Chen's interest in the property. Thus, notwithstanding any purported encumbrance, Chen retained a 50 percent interest in the property. Finally, Wu fails to demonstrate that she has any viable interest in the property.

A. Wu's Appeal Is Procedurally Flawed

Wu has failed to provide an adequate brief on appeal. Her opening brief contains *no* citation to the record on appeal. California Rules of Court, rule 8.204(a)(1)(C) requires that a party "[s]upport any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears." This court may disregard factual assertions that are not followed by citations to the record. (*Regents of University of California v. Sheily* (2004) 122 Cal.App.4th 824, 826–827 & fn. 1.) By providing *no* citation to the record, Wu has forfeited her arguments on appeal. (*City of Lincoln v. Barringer* (2002) 102 Cal.App.4th 1211, 1239.)

B. Wu's Legal Arguments Are Without Merit

Notwithstanding the procedural flaw, we choose to consider Wu's legal arguments.

1. Wu ignores Family Code section 1102

Family Code section 1102, subdivision (a) (section 1102) provides in pertinent part: “[E]ither spouse has the management and control of the community real property, whether acquired prior to or on or after January 1, 1975, but both spouses, either personally or by a duly authorized agent, must join in executing any instrument by which that community real property or any interest therein is leased for a longer period than one year, or is sold, conveyed, or encumbered.” Under the plain language of section 1102, Lee could not transfer or encumber Chen’s interest in the property. Thus, immediately prior to the sale of the property, Chen owned a 50 percent interest in it.

Wu appears to recognize that the plain language of section 1102 prevented Lee from encumbering Chen’s interest. However, she argues that section 1102 does not apply because Lee and Chen had a “[f]raud marriage.” Wu appears to base her conclusion of a “fraud marriage” on Lee’s declaration averring that Chen married Lee in order to assist Chen in facilitating the immigration of her relatives to the United States. Lee also averred that Chen did not contribute to the mortgage.

Section 1102 is not conditioned on the reason for spouses to marry.² Nor does it depend on which spouse paid the mortgage. Quality sold the house that was a community property asset even if Lee was the sole spouse contributing to the mortgage. (See Fam. Code, § 760 [“Except as otherwise provided by statute, all

² Section 1102 sets forth certain exceptions as provided in Family Code section 761 concerning revocable trusts and Family Code section 1103 concerning management of community property when one spouse lacks legal capacity. Neither exception applies here, and Wu does not argue otherwise.

property, real or personal, wherever situated, acquired by a married person during the marriage while domiciled in this state is community property”].) The facts Wu emphasizes are thus irrelevant to the application of section 1102.

The following critical facts are undisputed: Lee and Chen purchased the house as married persons and they continued to be married when Lee encumbered the property. Thus, even if the trial court credited Lee’s declaration (which the record does not show), under section 1102 Lee could not encumber Chen’s interest in the property.

2. Wu demonstrates no valid interest in the property

Wu states that she had recorded mechanic’s liens and a judgment and argues those obligations trump Chen’s interest in the property. Wu fails to show that her mechanic’s liens were valid. As Chen points out, only persons who have worked on a work of improvement are entitled to a mechanic’s lien. (Civ. Code, § 8402.) Those persons include a direct contractor, subcontractor, material supplier, equipment lessor, laborer, and design professional. (*Id.*, § 8400.) No evidence shows Wu falls within any of these categories, and therefore she cannot show her mechanic’s liens were valid. Moreover, Wu cannot rely on the recorded judgment against Lee because the trial court has vacated that judgment. In short, Wu’s argument that she had an interest in the property lacks merit.

Finally, Wu cites *In re Marriage of Watts* (1985) 171 Cal.App.3d 366 and *In re Marriage of Epstein* (1979) 24 Cal.3d 76 [superseded by statute as stated in *In re Marriage of Walrath* (1998) 17 Cal.4th 907, 914].) Those cases involve the

division of property in a divorce. Wu does not explain how these cases are helpful in resolving the distribution here.³

DISPOSITION

The order distributing surplus funds after trustee's sale of real property is affirmed. Chen is awarded her costs on appeal.

NOT TO BE PUBLISHED.

BENDIX, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.

³ We are aware that the parties are litigating a related case in the trial court. However, the only order that is the subject of this appeal is the order distributing funds made October 3, 2017. An order resolving priority claims and releasing surplus funds under Civil Code section 2924j has been treated as final and appealable. (See *CTC Real Estate Services v. Lepe* (2006) 140 Cal.App.4th 856, 859–860.)